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**By Hand Delivery**

Mr. Gary A. Evenson, Acting Administrator  
Telecommunications Division  
Public Service Commission of Wisconsin  
610 North Whitney Way  
P.O. Box 7854  
Madison, Wisconsin 53707-7854

**Re:   *Commission Review of and Response to the Federal  
Communications Commission's Triennial Review Order Relative  
to Network Unbundling Obligations and Related Issues  
Docket No. 05-TI-824***

Dear Mr. Evenson:

MCImetro Access Transmission Services, LLC and MCI WorldCom Communications, Inc. (collectively, "MCI") hereby respond to the Commission's July 25, 2003 Notice of Investigation soliciting input on issues of concern to parties in this proceeding, which the Commission has opened to consider issues arising out of the FCC's forthcoming Triennial Review Order.<sup>1</sup> MCI also hereby requests full intervention in the above-referenced docket pursuant to Wis. Stat. § 227.44(2m) and Wis. Admin. Code § PSC 2.21 because, as explained below, its substantial interests will be affected by the Commission's action or inaction in this docket.

MCI provides competitive local exchange services in Wisconsin, as it has been authorized to do by the Commission. MCI currently provides such services on a mass markets basis through leasing the unbundled network element platform ("UNE-P"), which includes unbundled local switching. As a UNE-P provider, this Commission's treatment of issues arising

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<sup>1</sup> The following discussion is based solely on the FCC's February 20, 2003 press release regarding the Triennial Review Order, and MCI reserves its right to reevaluate, modify and supplement the positions set forth herein after a thorough review of that order.

out of the forthcoming Triennial Review Order – particularly those relating to unbundled local switching – is of vital importance to MCI. Without continued access to unbundled local switching on a mass markets basis in the near term, MCI would not be able to serve its customers. As relates to this subject, there is but one overarching issue that this Commission needs to address in the context of the FCC-directed nine-month proceeding: Have ILECs overcome the presumption that CLECs are impaired without local switching (on a mass markets basis) as an unbundled element?

However, a decision simply finding that CLECs are impaired in this regard, without more, is a hollow victory for CLECs who desire – as does MCI – to move to providing local exchange service using their own facilities. For MCI to make maximum use of its own, existing switching facilities and for MCI to make rational business decisions on when, what, and where to deploy new switching facilities (circuit or packet), a multitude of economic and operational issues need to be resolved. This impairment case, therefore, should do more than simply confirm the FCC's finding of impairment; this case should also define the economic and operational issues and establish the process by which those issues are to be resolved. MCI provides a preliminary list of these issues below:

**Economic Issues:**

1. When does facilities-based investment make economic and policy sense?
2. What economic, technological, pricing, or marketing factors go into a decision to invest in switching facilities?
3. What are the carrier impacts of premature (forced) removal of local switching as an unbundled network element?
4. What are the customer impacts to premature removal of switching as an unbundled network element?
5. Should a Commission monitor or oversee CLEC facilities-based investment?
6. If the answer to Question No. 5 above is in the affirmative, how does a Commission monitor or oversee CLEC facilities-based investment?
7. What is the proper geographic or other area in which impairment is analyzed?
8. Should impairment be determined per switch, per CO, per region, or on some other basis?

9. How will the Commission and the ILEC/CLECs track changes in impairment status after a determination of the level at which impairment is to be examined?
10. What are the cost drivers that affect CLEC deployment of switching facilities?
11. How do operational impairment issues affect the economic analysis?
12. How does the evolution of new technologies (e.g., packet switching) affect the CLEC decision to deploy switching facilities?
13. How is “impairment” defined from an economic perspective for switching facilities?

**Operational Issues:**

1. What are the dynamics of a competitive local telecommunications market, including customer churn, CLEC to CLEC, CLEC to ILEC, ILEC to CLEC migrations, over various service delivery methods?
2. How do the dynamics of a competitive, facilities-based local telephone market affect the operational issues? For example, what new processes, procedures, and OSS systems need to be deployed to allow CLECs to communicate with each other on a real-time electronic basis and ensure the smooth migration of customers among different providers with different service delivery methods?
3. How does the fact that CLEC networks are designed differently from ILEC networks affect the operational issues?
4. What ILEC systems and processes need to be altered to accommodate dynamic facilities-based local telecommunications competition?
5. What CLEC systems and processes need to be altered to accommodate dynamic facilities-based local telecommunications competition?
6. What industry-wide systems and processes need to be altered to accommodate a dynamic facilities-based competition, including but not limited to, updates to E911, number portability issues, directory listings, white pages, and customer service records?
7. What are the implications of various digital loop carrier technologies on CLECs' ability to utilize the full functionality of the ILECs' loop facilities on an unbundled basis or otherwise?

8. How can the CLEC means of gaining access to the unbundled loop plant be made more efficient/commercially viable?
9. What changes need to be made to ILEC collocation tariffs/processes?
10. What changes need to be made to ILEC enhanced extended loop tariffs or product offerings?
11. How will CLECs be able to use the ILECs' loop plant to provide DSL/IP-based services?
12. Where and how do interconnection trunks need to be augmented or established?
13. What additional interconnection arrangements need to be established or augmented to ensure call completion between all local exchange carriers (CLECs, SBC, independent LECs, etc.)?

The Commission's Notice also invited process suggestions. MCI reserves detailed comment on this subject until a reasonable period after issuance of the Triennial Review Order. However, MCI can make some general process recommendations at this time:

**Process Suggestions:**

1. Prior to the beginning of the anticipated 90-day proceeding on switching for high-capacity loops, the Commission should make clear that no findings of fact, analysis, or conclusions of law made in that proceeding will in any way be precedential or influential as to the nine month proceeding regarding unbundled switching for mass market customers. (If the Commission does not make this clarification prior to the beginning of the 90 day proceeding, some CLECs, such as MCI, would be forced to participate in a proceeding in which they would not otherwise be interested in participating.) However, the Commission should confirm that if other CLECs participate in such a 90-day proceeding, and if impairment is shown without access to switching for high-capacity loops, then principles of non-discrimination would require that such switching be made available to all CLECs.
2. MCI suggests that this proceeding be conducted as a contested case, including discovery rights and evidentiary hearings.

3. Any party seeking to rebut the FCC's presumption that CLECs are impaired without local switching (on a mass-markets basis) as an unbundled element should bear the burden of proof in this proceeding.
4. The Commission should make its impairment determinations in a single, generic proceeding that covers all ILECs subject to the unbundling obligations of the Federal Telecommunications Act of 1996, all CLECs, and all regions of the state.
5. To the extent practicable, where other states in SBC's region (particularly the SBC-Midwest region) have developed an evidentiary record in comparable proceedings, parties should be permitted to import that evidentiary record to Wisconsin, with the understanding that parties in the Wisconsin proceeding should have the opportunity to supplement that record with additional discovery and through cross-examination at hearing to complete the Wisconsin record.
6. To the extent that the Triennial Review Order implements changes to the FCC's TELRIC rules, such changes should be evaluated and applied prospectively only, and not retroactively to the findings in Docket No. 6720-TI-161.
7. The Commission should not actively investigate shared and dedicated transport issues arising out of the Triennial Review Order unless and until an ILEC seeking to alter the *status quo* set forth in the Triennial Review Order makes a filing asserting that the Commission should make a determination of no impairment for dark fiber, DS3 transport or DS1 transport. At the time of any such ILEC filing, the Commission could open a new investigation and issue a notice for comments on what procedures participants believe should be used in that proceeding, including whether discovery and hearings are appropriate.

Pursuant to the above request for full intervention, MCI requests that Deborah Kuhn and Niles Berman be added to the full party service list as follows:

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If it is only possible to include a single contact on the full party service list, please include me, and then add Mr. Berman to the "courtesy copy" list.

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MCI looks forward to working with the Commission and the parties to implement the FCC's Triennial Review Order and appreciates the opportunity to provide its input to the Commission.

Very truly yours,

Deborah L. Kuhn